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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,190	03/22/2004	Silvio Cane'	38697/GM/ps	1002

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EXAMINER

CHHABRA, ARUN S

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/805,190

Applicant(s)

CANE', SILVIO

Examiner

Arun S. Chhabra

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/22/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Vawter (US Patent Number 6,010,432).

Vawter discloses an exerciser which has a resting platform in a longitudinal direction upon which a user's feet lie. There are bars 19 at an upper region of the frame a platform for a user to grip onto while walking or running along the platform. The platform constitutes a treading surface having a plurality of parallel rollers 33 that are freely rotatable within the platform and transversely to the longitudinal direction. The rollers are grouped into adjacent and mirror-image sets of two which are perpendicular along the longitudinal direction, each set allowing for the walking or running on of an individual left or right limb of a user. The two roller sets lie on the outside of one longitudinal member 34 and 35 and in between two outer longitudinal members 34 and 35. The longitudinal members comprise a set of three longitudinal members as the

rollers lie in between the through holes of successive longitudinal members to form two sets of rollers.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vawter in view of Dunham (US Patent Number 5,184,988).

Vawter discloses the claimed invention except for the bushings and bearings. Dunham teaches that it is known to use bushings and bearings as set forth in Figure 5 and in column 6, lines 18-56 on a treadmill apparatus. In addition, the bearings of Vawter are made of antifriction material as described lines 18-56 of column 6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the exerciser as taught by Vawter, to incorporate bushings and bearings as taught by Dunham, since such a modification would provide the exerciser with bushings and bearings for providing a smooth movement of the rollers.

In regards to claim 6, Dunham discloses the bushings and bearings but does not explicitly state that they are held in place along the frame by seaming. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bushings as taught by Dunham, to have them fixed by seaming

since it was known in the art that seaming is a common technique used to fix something in place.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vawter in view of Buhler (US Patent Number 5,542,892).

Vawter discloses the claimed invention except for the upper frame setup. Buhler teaches that it is known to use the upper frame set up of applicant as set forth in Figure 1. More specifically, the upper frame set up of Buhler includes an arch that protrudes vertically from the front portion of the platform and also includes L-shaped bars attached to the arch at the front and the rear of the platform at the back. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the exerciser as taught by Vawter, with the upper frame set up of Buhler, since such a modification would provide the exerciser with the upper frame set up that is claimed by applicant.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vawter in view of Buhler as applied to claim 7 above, and further in view of Centafanti (US Patent Number 4,413,821).

Vawter and Buhler discloses the claimed invention except for the detachable arms. Centafanti teaches that it is known to use detachable arms as set forth in Figure 2. The detachable arms of Centafanti show detachment points of the arms on the front and back of the frame. The arms also have detachment points to each other so that the entire frame can be taken apart. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the exerciser as taught by

Vawter and Buhler, with detachable arms as taught by Centafanti, since such a modification would provide the exerciser with detachable arms for providing portability to the exerciser.

In regards to claim 9, Vawter discloses parallel cross members 41 and 41a at central, rear and forward portions of the platform. As shown in Figure 5, cross member 41 engages in a recess provided in between the longitudinal member. Thus each cross member forms continuously with the longitudinal members to enclose the plurality of rollers. Though Vawter does not explicitly disclose that the cross members 41 are attached to the longitudinal members 34 and 35 by a screw means, a screw means is commonly known in the art for the attachment of cross members. Even more, Vawter discloses a screw means 39 to hold the metal fixtures of the rollers, which are cross members in and of themselves, in place. Thus, since a screw means was commonly known in the art at the time of the invention, it would have been obvious to apply it for the attachment of cross members.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vawter in view of Buhler and Centafanti as applied to claim 9 above, and further in view of Chang (US Patent Number 5,372,560).

Vawter discloses the claimed invention except for the longitudinal members forming an inclined angle. Chang teaches that it is known to use inclined longitudinal members, which in Chang are part of the rack 61 in figure 2. The longitudinal members have through holes inside of them for the passage of rollers and the longitudinal members extend at an inclined angle all the way up the length of the treading

apparatus. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the exerciser as taught by Vawter, with inclined longitudinal members as taught by Chang, since such a modification would provide the exerciser with longitudinal members which are capable of receiving cross members and which incline at an upwards preset angle with respect to a resting bottom surface.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vawter in view of Abboudi et al. (US Patent Number 5,123,641).


Vawter discloses the claimed invention except for the rust and corrosion resistant material. Abboudi teaches that it is known to use rust and corrosion resistant material as set forth in column 5, lines 35-39 so that the exercise apparatus won't corrode or oxidize when placed in water. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the exerciser as taught by Vawter, with a rust and corrosion resistant material as taught by Abboudi, since such a modification would provide the exerciser with a rust and corrosion resistant platform so that the platform would not oxidize or corrode when placed in water.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Chhabra whose telephone number is 571-272-7330. The examiner can normally be reached on M-F 9:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT 332